

ISAAC DANIEL LEVENTON

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3 IN RE:) CASE NO. 18-30264-SGJ7
)
4 ACIS CAPITAL MANAGEMENT, L.P.,) Chapter 7
)
5 ALLEGED DEBTOR)

7 IN RE:) CASE NO. 18-30265-SGJ7
8 ACIS CAPITAL MANAGEMENT GP,)
LLC,) Chapter 7
9)
ALLEGED DEBTOR)

ORAL DEPOSITION OF ISAAC DANIEL LEVENTON

7 ORAL DEPOSITION OF ISAAC DANIEL LEVENTON, being produced
8 as a witness at the instance of the Petitioning Creditor, taken
9 in the above-styled and numbered cause on the 7th day of March,
10 2018, from 9:16 a.m. to 7:32 p.m., before Rhonda Jacks,
11 Certified Shorthand Reporter in and for the State of Texas, by
12 machine shorthand, at the offices of McKool Smith, 300 Crescent
13 Court, Suite 1500, Dallas, Texas, in accordance with the
14 Federal Rules of Civil Procedure and the agreements hereinafter
15 set forth:

ISAAC DANIEL LEVENTON

2

1 A P P E A R A N C E S

2 APPEARING ON BEHALF OF THE DEBTOR:

3 MR. GARY CRUCIANI
4 MR. MICHAEL FRITZ
5 McKool Smith, P.C.
6 300 Crescent Court
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8 Dallas, TX 75201
9 214-978-4000
10 gcruciani@mckoolsmith.com

11
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17 201-525-6233
18 wusatine@coleschotz.com

19 APPEARING ON BEHALF OF THE PETITIONER CREDITOR, JOSHUA TERRY:

20 MS. RAKHEE V. PATEL
21 Winstead, P.C.
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23 2728 N. Harwood Street
24 Dallas, TX 75201
25 214-745-5400
rpatel@winstead.com

26 Also Present:

27 Joshua Terry

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Complete Legal

214-746-5400

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1 Q Is he counsel for the Dugaboya Investment Trust?

2 A I don't know.

3 Q Okay. But Mr. Ellington brought it to your
4 attention?

5 A Yes.

6 Q Did Mr. Dondero bring it to your attention?

7 A No.

8 Q Was he a part of any communications bringing to your
9 attention that there may be a potential conflict?

10 A Mr. Dondero?

11 Q Yes.

12 A No.

13 Q Just Mr. Ellington brought it to your attention?

14 A Correct.

15 Q Okay. Did you do any independent looking to see what
16 you could figure out before you spoke with Ms. Dondero?

17 A I don't know that I did, no.

18 Q Okay. So you just picked up the phone and called Ms.
19 Dondero. Is that right?

20 A Yes.

21 Q Okay. What did you tell Ms. Dondero?

22 A That we discussed the potential conflict.

23 Q Okay. Tell me the conversation. What did you tell
24 Ms. Dondero?

25 A That there might be a potential conflict.

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1 Q Okay. And then how did she respond?

2 A **Then there was a discussion about what to do about**
3 **it, whether to send a letter to Winstead.**

4 Q Okay. And did she make the decision to send the
5 letter to Winstead?

6 A **Yes.**

7 Q Did anyone on the Highland Capital Management legal
8 team draft the letter that is attached to Exhibit 4?

9 A **I assisted her in drafting.**

10 Q You assisted her in drafting it?

11 A **Yes, ma'am.**

12 Q Okay. Because I thought you just said she drafted
13 it.

14 A **She did draft it.**

15 Q Okay. But you assisted her?

16 A **Yes.**

17 Q Okay. Let's go back to Exhibit 4 then. Let's take a
18 look at the language. What parts did you assist her in
19 drafting?

20 A **I helped with the letter, and she had the ability to**
21 **edit the letter.**

22 Q Okay. So did you draft it, and she edited it?

23 A **Yes.**

24 Q Okay. Where did you get the documents that are all
25 referenced within Exhibit Number 4 in the footnotes where it

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1 Q Okay. And then how did she respond?

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3 **it, whether to send a letter to Winstead.**

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5 letter to Winstead?

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8 team draft the letter that is attached to Exhibit 4?

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10 Q You assisted her in drafting it?

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13 it.

14 A **She did draft it.**

15 Q Okay. But you assisted her?

16 A **Yes.**

17 Q Okay. Let's go back to Exhibit 4 then. Let's take a
18 look at the language. What parts did you assist her in
19 drafting?

20 A **I helped with the letter, and she had the ability to**
21 **edit the letter.**

22 Q Okay. So did you draft it, and she edited it?

23 A **Yes.**

24 Q Okay. Where did you get the documents that are all
25 referenced within Exhibit Number 4 in the footnotes where it

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1 **friends.**

2 Q So can we at least be clear that when you were
3 providing this information to Ms. Dondero, it wasn't in your
4 capacity as her friend. It was in your capacity as somebody at
5 Highland Capital Management. It was in the course and scope of
6 your job and function, right?

7 A **Honestly, ma'am, I didn't consider what capacity I**
8 **was doing it.**

9 Q I am not asking you if you considered what capacity.
10 I am asking you what capacity you actually had.

11 A **I don't have an answer to the question.**

12 Q Okay. You don't know what capacity you were
13 serving -- giving her advice with respect to conflicts of
14 interest, but it clearly wasn't as her friend, right?

15 A **It wasn't as a friend.**

16 Q Okay. Let's look at Exhibit Number 5 then. And
17 I will ask you who drafted the language in Exhibit Number 5?

18 A **That, I am not actually certain about.**

19 Q Okay.

20 A **To the extent that the language is the same as**
21 **Exhibit 4, that would be my original language. To the extent**
22 **that there are differences, I didn't draft those differences.**

23 Q Okay. Well, did Ms. Dondero?

24 A **I don't know.**

25 Q Okay. Well, how did Exhibit Number 5 come into your

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1 **A No, not necessarily.**

2 **Q**Okay. What other capacity would he have to
3 provide -- to make decisions on behalf of Acis LP?

4 **MR. CRUCIANI:** Objection. Speculation. Legal
5 conclusion.

6 **A I don't know one way or another. I am just telling**
7 **you that his conversations with me are typically about legal**
8 **strategy.**

9 **Q**Okay. Well, the question though was, is Mr.
10 Ellington acting -- When he is making decisions on behalf of
11 what should happen in connection with these involuntary
12 bankruptcies, is he acting only under the shared services
13 agreement? Is that his capacity to act or is there some other
14 capacity in which he can speak on behalf of Acis LP?

15 **MR. CRUCIANI:** Objection. Legal conclusion.
16 Speculation.

17 **A I would have to ask Mr. Ellington. I don't have the**
18 **answer to that question.**

19 **Q**Well, how about for you? Is the shared services
20 agreement the only agreement under which you can operate and
21 have any authority with which to act on behalf of Acis LP?

22 **MR. CRUCIANI:** Objection. Legal conclusion.

23 **A I act under the shared services agreement, and I also**
24 **act as Mr. Ellington's subordinate.**

25 **Q**Okay. But you are not sure what authority he has to

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1 act? You just do what he says?

2 A He is my boss. I follow his instructions.

3 Q So you just do what he says, and you don't question
4 where he gets his authority from?

5 A I mean to the extent that something would seem
6 clearly wrong or improper, I would question that, but this is
7 not that case.

8 Q Okay.

9 A So I don't always check every single corporate
10 document to follow the string of authority before I tell
11 outside counsel that it's okay for them to reply to a letter.

12 Q Okay. Well, as we saw in Exhibit Number 4 --
13 Exhibits 4 and 5 it appears you have at least reviewed some of
14 the corporate documents in connection with Acis LP. Have I got
15 that right?

16 A Yes.

17 Q And does anything in those corporate documents
18 indicate to you that Mr. Ellington has direct authority or
19 ability under the organization documents for either Acis LP or
20 Acis GP to act on behalf of those entities?

21 A Frankly it's not a question I have done a complete
22 analysis of. I guess if I took the time to do that, then maybe
23 I would be able to answer the question more completely.

24 Q I am trying to figure out who makes what decisions on
25 behalf of Acis LP. And here we're talking about who makes the

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1 That pursuant to the information made available to me at
2 the time said deposition was taken, the following includes all
3 parties of record:

4 MR. GARY CRUCIANI, Attorney for the Debtor
5 MR. WARREN USATINE, Attorney for the Debtor
MS. RAKHEE PATEL, Attorney for the Petitioning Creditor,
Joshua Terry

7 That before the conclusion of the deposition, the witness,
8 ISAAC DANIEL LEVENTON, did request a review of this transcript
9 pursuant to Rule 30(e)(1).

10 I further certify that I am neither counsel for,
11 related to, nor employed by any of the parties or attorneys in
12 the action in which this proceeding was taken, and further that
13 I am not financially or otherwise interested in the outcome of
14 the action.

16 Certified to by me, this 9th day of March, 2018

Monica Jackson

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